

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

PATRICK SHAUN LOVEDAY,

Petitioner,

No. CIV S-05-0105 GEB DAD P

vs.

M. YARBOROUGH,

Respondent.

ORDER

\_\_\_\_\_/

Petitioner is a state prisoner proceeding pro se with a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On July 21, 2006, respondents' December 6, 2005 motion to dismiss the petition as a mixed petition was denied and petitioner was granted leave to file an amended motion for a stay and abeyance. On August 29, 2006, petitioner was granted an extension of time to file his amended motion on or before October 17, 2006. Petitioner has failed to file his amended motion for a stay and abeyance. Therefore, this action will proceed with only petitioner's exhausted claims. The court will order petitioner to file an amended petition, using the form petition provided by the court, and to include only those claims that are fully exhausted. Following the filing of the amended petition, the court will order respondents to file their response.

////

Accordingly, IT IS HEREBY ORDERED that:

1. Within thirty days from the service of this order, petitioner shall file an amended petition that complies with the requirements of the Federal Rules of Civil Procedure; the amended petition must bear the docket number assigned this case and must be labeled "Amended Petition;" petitioner must use the form petition provided by the court and answer each question on the form without reference to an attachment; petitioner must file an original and one copy of the amended petition; petitioner's failure to file an amended petition in accordance with this order will result in the dismissal of this action; and

2. The Clerk of the Court is directed to provide petitioner with the court's form petition for a writ of habeas corpus by a state prisoner.

DATED: March 28, 2007.

  
\_\_\_\_\_  
DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE

DAD:4  
love0105.9